

Filed in Douglas District Court

*** EFILED ***

Case Number: D01CI180006562

Transaction ID: 0007193208

Filing Date: 07/24/2018 09:41:25 AM CDT

IN THE DISTRICT COURT OF DOUGLAS COUNTY, NEBRASKA

STEVEN AGEE

Plaintiff,

vs.

ERIC S. LIMA, COREY M.
GORDEN, and THE CITY OF
OMAHA, a Political Subdivision,

Defendants.

Case No:

CH-18-65162

COMPLAINT

PC11K

COMES NOW the Plaintiff and for his cause of actions alleges and states as follows, to wit:

1. This action is brought pursuant to 42 USCA 1983 for violation of the Plaintiff's civil rights.
2. That at all times pertinent hereto the Defendants, Lima and Gorden were duly sworn officers of the Omaha Police Department and were acting in their official capacity.
3. That at all times pertinent hereto the Defendants, Lima and Gorden were employees of the City of Omaha.
4. That on or about January 3, 2017, the Defendants, Officer Lima and Officer Gorden, were dispatched to the Plaintiff's residence.
5. The Officers entered the Plaintiff's home without a warrant or his consent
6. The Officers questioned the Plaintiff about being in possession of firearms without first advising of his right under the 5th Amendment of the Constitution of the United States and Article I section 12 of the Constitution of the State of Nebraska.
7. The Plaintiff was arrested for being a prohibited person in possession of a firearm based first on a claim the Plaintiff was a convicted Felon and after proof furnished by the Plaintiff he was not a felon upon a Harassment Protection Order being issue against him.

EXHIBIT

1

8. The Plaintiff was placed in Douglas County Corrections.
9. The Plaintiff remained in Douglas County Corrections for a period of 21 days.
10. That while the Plaintiff was incarcerated he was denied his medication duly prescribed for pain management.
11. The Plaintiff has complied with the notice requirement of the Nebraska Tort Claims act.

**COUNT I
False Arrest**

12. For brevity herein, the Plaintiff realleges paragraphs 1 -11 of his Complaint.
13. At the time of Plaintiff's arrest, he was not a prohibited person to possess a firearm as defined by 28-2601 R.R.S. 1943.
14. The arrest of the Plaintiff was without a warrant and without probable cause. It was made upon a mistake of law in violation of the Plaintiff's rights as set out in 42 USCA 1983.

**COUNT II
Unlawful Seizure**

15. For brevity herein, the Plaintiff realleges paragraphs 1-11 of his Complaint.
16. At the time of his arrest, the Defendant Officers confiscated the Plaintiff's firearms in violation of the Plaintiff's rights under the Second and Fourth Amendments of the US Constitution and Article I Sections One and Seven of the Nebraska Constitution and in violation of 42 USCA 1983.

**COUNT II
8th Amendment Violation**

17. For brevity herein, the Plaintiff realleges paragraphs 1-11 of his Complaint.
18. At the time of the Plaintiff's incarceration, Plaintiff was under the care of a physician and was a recipient of pain management which required the Plaintiff to take prescribed pain medications.

19. During the Plaintiff's incarceration, Plaintiff was not allowed the use of the prescribed medication and was forced to suffer from extreme pain and withdrawal symptoms.

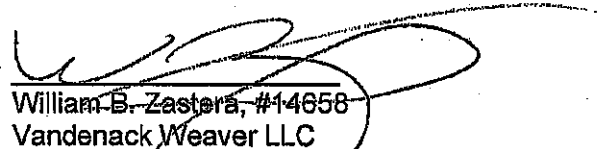
20. That said actions subjected the Plaintiff to cruel and unusual punishment in violation of the 8th Amendment of the U.S. Constitution and Article I Section Seven of the Nebraska Constitution and 42 USCA 1983.

WHEREFORE, Plaintiff prays for judgment against the Defendants for special damages in the amount of \$2,400 in lost wages and general damages and attorney fees, as allowed under 42 USCA 1983, cost of this action, and for such other and further relief that the Court may deem just.

Dated this 23 day of July, 2018.

STEVEN AGEE, Plaintiff

By:


William B. Zastera, #14658
Vandenack Weaver LLC
17007 Marcy Street, Suite 3
Omaha, NE 68118-3122
Telephone: (402) 504-1300
Facsimile: (402) 504-1935
wzastera@vwattys.com
Attorneys for Plaintiff

STATE OF NEBRASKA)
)ss.
COUNTY OF DOUGLAS)

STEVEN AGEE, being first sworn upon oath, deposes and states that he is the Plaintiff in the above and foregoing cause of action, has read the above Complaint, knows the allegations therein and that the same are true as he positively believes.

Steve Agee
Steven Agee, Plaintiff

SUBSCRIBED AND SWORN TO before me this 23 day of July, 2018 by Steven Agee.

[Signature]
Notary Public

